

9-701. Petition for writ of habeas corpus.

[For use with District Court Criminal Rule 5-802]

STATE OF NEW MEXICO
COUNTY OF _____
IN THE DISTRICT COURT

For Official Use Only
No. _____
(To be supplied by the clerk of the court)

_____,
(Full name of prisoner)
Petitioner,

v.

_____,
(Name of warden, jailor or other person having power to release the petitioner)
Respondent.

PETITION FOR WRIT OF HABEAS CORPUS

Instructions — Read Carefully

Make sure that all information provided in this form is true and correct. Make sure that all necessary documents are attached, or explain why the documents are not being included. If you are seeking free process, complete Form 9-403.

Finally, you must complete the certificate of service and mail or otherwise serve copies of this petition on the respondent and the district attorney in the county in which the petition is filed. You must file the original petition and one copy with the Clerk of the District Court. You should keep a copy for your own records.

1. _____ *(name of person in custody)* is imprisoned or otherwise restrained at _____ *(name of facility and county of detention)* by _____ *(name and title of person having custody)*.

2. This petition
[] seeks to vacate, set aside or correct an illegal sentence or order of confinement (i.e., ineffective assistance of counsel, illegal search and seizure, involuntary confession, or other matters relating to the trial or sentence the confined person received).

[] challenges confinement or conditions of confinement or matters other than the sentence or order of confinement. *(This applies only to matters arising after the confined person arrived at the institution, i.e., county jail confinement, mental hospital confinement, detention facility confinement, good time credit, misconduct report, prison due process violation or parole).*

3. State concisely the grounds and law, or other legal authorities on which the confined person bases the claim:

4. Have the grounds being raised in this petition been raised previously in any other proceeding? If so, explain the result. If not, explain why not:

5. Briefly describe the relief requested:

6. State the nature of the court proceeding resulting in the confinement (*i.e.*, *criminal prosecution, civil commitment, etc.*), the case name, docket number, name of judge, and name and location of the court in which the proceeding was held:

7. State the date of the final judgment, order or decree for confinement and a summary of its terms:

8. Attach a copy of the judgment, order or decree. If not, explain why you are not doing so.

9. Was the conviction the result of:

- Guilty plea
 No Contest plea (*nolo contendere*)
 Finding of guilty by judge or jury

10. Was the confined person represented by an attorney during the proceedings resulting in the confinement?

- Yes
 No

11. If you answered "yes" to (10), list the name and address of each attorney who represented the confined person:

12. Was an appeal taken?

- Yes (*Go to 13*)
 No (*Go to 14*)

13. If you answered "yes" to (12), list:

(a) The name of each court to which an appeal was taken, the case name and docket number, and date: (*Attach a copy of each opinion or order*)

(b) A summary of the grounds upon which each appeal was based:

(c) The result of each appeal:

(d) The name and address of the attorney on appeal:

14. If you answered "no" to (12), state the reasons for not appealing:

15. Apart from any appeals listed in (13), have any other post conviction applications, petitions or motions, been filed with regard to this same imprisonment or restraint?

_____ Yes (*Go to 16*)

_____ No (*Go to 17*)

16. If you answered "yes" to (15), list with respect to each such petition or motion:

(a) The type of proceeding:

(b) The name and date of each case, the docket number, the court, the administrative agency, or institutional grievance committee from which relief was sought, and the result of each proceeding. (Attach a copy of each decision.)

(c) The issues raised in each proceeding:

(d) State whether a hearing was held in connection with each of these proceedings:

(e) State whether the confined person was represented by an attorney in each proceeding and, if so, the attorney's name and address:

17. Do you seek the appointment of counsel to represent you?

_____ Yes

_____ No

If you would like the court to appoint counsel to represent you, are you able to pay the lawyer appointed to represent you?

_____ Yes

_____ No

If you are not able to pay the lawyer appointed to represent you, you must complete Form 9-403.

VERIFICATION

STATE OF NEW MEXICO

COUNTY OF _____

I, the undersigned, being first duly sworn upon my oath, state that I am the petitioner in this action. I have read the foregoing petition and know and understand its contents, and the information contained herein is true and correct to the best of my knowledge, information and belief. On _____, _____ (date), I deposited this petition in the internal mail system of the institution in which I am confined, properly addressed with any necessary postage prepaid, for forwarding to the district court at the following address:

_____ Court (name of court)
_____, (city), New Mexico, _____ (zip code).

(Signature)

(Address)

PNM No., if applicable

SUBSCRIBED AND SWORN TO before me this _____ day of _____, _____, by

(name of petitioner)

Notary Public

My Commission Expires:

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing petition were served upon the respondent and the district attorney in the county in which the petition is filed by _____ (describe manner of service), this _____ day of _____, _____

(Signature of petitioner)

NOTE

After this petition is reviewed by the Court, the Court will enter the order granting or denying the writ or ordering a response before further action. The order shall be prepared by the Court.

[Adopted, effective August 1, 1989; as amended by Supreme Court Order No. 09-8300-008, effective May 6, 2009.]